

Special Notice

STATE BOARD OF EQUALIZATION

450 N Street Sacramento California 95814

Changes to Motor Vehicle Fuel and Diesel Fuel Tax Laws Will Take Effect January 1, 2002

The changes described in this notice are the result of the passage of Assembly Bill 2114, Stats. 2000, ch. 1053, and Assembly Bill 309, Stats. 2001, ch 429.

Overview

Change in point of taxation. Prior to January 1, 2002, distributors of motor vehicle fuel were responsible to report and pay the motor vehicle fuel license tax. On and after January 1, 2002, the excise tax on motor vehicle fuel will be imposed when

- Motor vehicle fuel is removed from the refinery or terminal rack
- Motor vehicle fuel is imported into this state by rail or truck and trailer
- Blended motor vehicle fuel is sold (blended motor vehicle fuel results from the combination of a nontaxable product with tax-paid motor vehicle fuel below the rack)

Registration and tax reporting changes. Some taxpayers will receive a new license, and others will be required to apply for a new license. See pages 2-6 for more information.

Floor stock. A floor stock tax will be imposed on all motor vehicle fuel owned on January 1, 2002, by a distributor (supplier) in the distribution chain below the refinery or terminal rack and for which tax has not been paid.

Name change. The motor vehicle fuel license tax will be called the motor vehicle fuel tax.

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Questions?

Please call us:

Fuel Taxes Division 916-322-9669

Information Center 1-800-400-7115.

Frequently Asked Questions

I am a jet fuel dealer. Am I affected by this law?

The only effect this law has on a jet fuel dealer is the change in the due date of the return. Beginning with the January 2002 return, the Aircraft Jet Fuel Dealer tax return will be due on or before the last day of the calendar month following the monthly period for which it relates. We will be revising the Aircraft Jet Fuel Dealer Tax Return to include uniform schedules in the near future.

I am a motor vehicle fuel broker. Does this law affect my reporting?

All Motor Vehicle Fuel Broker licenses will be closed effective December 31, 2001. If you engage in other activities as a supplier, you must apply for a license. A Supplier's License is required for a position holder, a terminal operator who holds an inventory position in the fuel within the terminal, a blender, an enterer, a refiner, or a throughputter of motor vehicle fuel.

I am a throughputter of diesel fuel. How does this law affect me?

All diesel fuel throughputter accounts will be closed effective December 31, 2001. You will need to apply for a supplier license and will be registered as a diesel fuel supplier and/or a motor vehicle fuel supplier as required. If you are a throughputter of both diesel fuel and motor vehicle fuel, you will be issued both types of supplier licenses.

Can I file one return with both my diesel and motor vehicle fuel transactions?

Terminal operators, bulk transport operators, and train operators report transactions for all products on one report and will be issued a single license for all activities. Suppliers of diesel fuel and motor vehicle fuel will have one license for reporting diesel fuel activities and a separate license for motor vehicle fuel activities. A separate return will be required for each account.

(continued on page 7)

Position Holder (DD and PS accounts)

(a) A person that holds an inventory position in motor vehicle fuel or diesel fuel as reflected in the records of the terminal operator. A contractual agreement also exists with the terminal operator for the use of storage facilities and terminaling services at the terminal with respect to motor vehicle fuel or diesel fuel.

You must be licensed as a Supplier of Motor Vehicle Fuel and/or a Supplier of Diesel Fuel. To apply for either license, or both licenses, submit form BOE-400-FCO. If you are currently licensed as a Supplier of Diesel Fuel and hold an inventory position in motor vehicle fuel, you must apply for a separate license as a Supplier of Motor Vehicle Fuel. You will retain your current account number for your diesel fuel activities.

You must file a monthly Supplier return (form BOE-501-DD for diesel fuel and form BOE-501-PS for motor vehicle fuel), detailing your monthly rack removals and imports of accountable products.

(b) A terminal operator that owns motor vehicle fuel or diesel fuel in its terminal. You must obtain a Supplier-Terminal Operator License. You must also be licensed as a Supplier of Diesel Fuel and/or as a Supplier of Motor Vehicle Fuel. To apply for one or more licenses, use form BOE-400-FCO.

Each month, you must file a terminal operator report (form BOE-506-PO), detailing your terminal receipts and deliveries. You must also file a supplier return (form BOE-501-DD for diesel fuel and form BOE-501-PS for motor vehicle fuel), detailing your monthly rack removals and imports of accountable products if you are operating as both a terminal operator and a position holder.

Refiner (DD and PS accounts)

A person that owns, operates, or otherwise controls a refinery.

You must be licensed as a Supplier of Motor Vehicle Fuel and/or a Supplier of Diesel Fuel. To apply for a license, use form BOE-400-FCO.

If you are licensed as a Diesel Fuel Supplier and also supply motor vehicle fuel, you must apply for a separate Motor Vehicle Fuel Supplier license. You will retain your current account number for your diesel fuel activities.

If the refinery includes a rack where accountable fuel products can be removed by truck or railcar, you must also be licensed as a Terminal Operator (see page 4).

You must file a monthly Supplier Return (form BOE-501-DD for diesel fuel and form BOE-501-PS for motor vehicle fuel), detailing your removals of accountable products from a refinery.

Blender (DD and PS accounts)

A person that produces or converts blended motor vehicle fuel or blended diesel fuel in California outside the bulk transfer/terminal system.

You must be registered as a Supplier of Motor Vehicle Fuel and/or a Supplier of Diesel Fuel. If you are currently registered as a Diesel Fuel Supplier and produce or convert motor vehicle fuel, you must apply for a separate Motor Vehicle Fuel Supplier license. You will retain your current account number for your diesel fuel activities.

To apply for either license, or both licenses, use form BOE-400-FCO.

You must file a monthly Supplier Return (form BOE-501-DD for diesel fuel and form BOE-501-PS for motor vehicle fuel), detailing your removals or sales of diesel fuel or motor vehicle fuel blended outside the bulk transfer/terminal system.

The number of gallons of blended diesel fuel or motor vehicle fuel subject to the tax is the difference between the total number of gallons of blended diesel fuel or motor vehicle fuel removed or sold and the number of gallons of tax-paid diesel fuel or motor vehicle fuel used to produce the blended diesel fuel or motor vehicle fuel.

Motor Vehicle Fuel Tax Law: Registration and Reporting Requirements as of January 1, 2002

CATEGORY REGISTRATION TAX REPORTING

Enterer (DD and PS accounts)

A person that imports motor vehicle fuel or diesel fuel and is the importer of record under federal customs law (or the owner of the fuel if the fuel is not subject to federal customs law). You must be licensed as a Supplier of Motor Vehicle Fuel and/or a Supplier of Diesel Fuel. If you are currently registered as a Diesel Fuel Supplier and import motor vehicle fuel, you must apply for a separate Motor Vehicle Fuel Supplier license. You will retain your current account number for your diesel fuel activities. To apply for either license, or both licenses, use form BOE-400-FCO.

You are required to pay the tax when you import the fuel into the state by means *outside** the bulk transfer/terminal system. You must file a monthly Supplier Return (form BOE-501-DD for diesel and form BOE-501-PS for motor vehicle fuel).

* Fuel that enters the state by means of a vessel is considered to be *within* the bulk transfer/terminal system.

Throughputter (DD and PS accounts)

A person that owns motor vehicle fuel or diesel fuel within the bulk transfer/terminal system, other than in a terminal.

You must be licensed as a Supplier of Motor Vehicle Fuel and/or a Supplier of Diesel Fuel. To apply for either license, or both licenses, use form BOE-400-FCO.

If you are currently licensed as a diesel fuel throughputter, that license will no longer be valid after December 31, 2001. You must apply for a new Diesel Fuel Supplier license.

You must file a monthly Supplier Return (form BOE-501-DD for diesel and form BOE-501-PS for motor vehicle fuel), reporting any above-the-rack sales to unlicensed persons and any above-the-rack imports and exports.

Aircraft Jet Fuel Dealer (MJ accounts)

A person who sells and delivers aircraft jet fuel to a user.

You must be registered as an Aircraft Jet Fuel Dealer. No change in current registration is required.

You must file a monthly report on form BOE-501-MJ. Effective January 1, 2002, this return will be due on the last day of the month following the reporting period.

Train Operator (PT accounts)

A person that owns, operates, or controls a motor vehicle fuel-powered or diesel fuel-powered train and is licensed as a railroad by a state or federal agency.

If you are currently licensed under the Diesel Fuel Tax Law, you will be issued a new account number.

You must file a quarterly report on form BOE-506-PT. Effective January 1, 2002, the quarterly report form will allow for the reporting of diesel and motor vehicle fuel. The report is due the last day of the month following the reporting period.

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Vessel/Pipeline Operator (*PC accounts*)

A bulk transport operator (ships, barges and pipelines) is a carrier who transports accountable fuel products by barge, ship, or pipeline.

A bulk transport operator who delivers liquid products into, or receives liquid products from, a terminal/refinery is required to be licensed with the Board as a vessel/pipeline operator.

To apply for a license, use form BOE-400-FTA.

A bulk transport operator must report the required transactions on form BOE-506-PC, Vessel/Pipeline Operator Report (Carrier Summary Report). The report is due on or before the last day of the month following the monthly period for which it relates. The report lists all deliveries to a terminal and receipts from a terminal by product code. The report must include all accountable products.

The Vessel/Pipeline Operator Report is similar to the Carrier Summary Report (form 720-CS), which is required to be filed with the IRS Excise Tax Summary Terminal Activity Report System (ExSTARS) project. California law does provide that the Board may, under certain conditions, accept the information it receives from ExSTARS. However, the Board will require the use of the Vessel/Operator Report at the start of the program.

Terminal Operator (PO accounts)

Any person that owns, operates, or otherwise controls a terminal that is supplied by pipeline or vessel and from which accountable fuel products may be removed at a rack.

You must be licensed with the Board as a Supplier – Terminal Operator. The diesel terminal operator program will be closed-out effective December 31, 2001.

If you are currently licensed as a terminal operator under the diesel fuel tax program, you will need to apply for a new Terminal Operator license (use application form BOE-400-FTA).

If you are also a position holder of diesel fuel or motor vehicle fuel within the terminal (or are jointly and severally liable for the tax), see "Position Holder" on page 2 for additional licensing and reporting requirements.

You are required to file a separate monthly Terminal Operator Information Report (form BOE-506-PO) for each terminal for which the IRS has assigned a TCN.*

The report is a monthly summary of terminal receipts and disbursements by product code. For California transactions, this report has identical requirements as the Terminal Operator Report (form 720-TO) required by the IRS. California law does provide that the Board may, under certain conditions, accept the information it receives from ExSTARS. However, the Board will require the use of the Terminal Operator Information Report at the start of the program.

* The IRS issues a Terminal Control Number (TCN) to every qualifying terminal in the United States. The IRS currently issues one TCN per location. Every qualifying terminal in California should have an IRS-issued TCN for their site.

Industrial User (PM accounts)

An industrial user is any person that receives gasoline blendstocks by bulk transfer for its own use in the manufacture of any product other than finished gasoline.

You must be licensed as an Industrial User with the Board in order to be exempt from the tax when you receive gasoline blendstocks by bulk transfer (removal from a pipeline or vessel) into a nonapproved terminal for your own use in the manufacturing process, as long as your final product is not finished gasoline.

To obtain a license, please use form BOE-400-FTA.

No return is due. Your Industrial User license serves as an exemption certificate enabling you to purchase the gasoline blendstocks without tax. Your supplier must charge you the tax on sales of blendstocks by bulk transfer if you do not provide a copy of your Industrial User License.

Qualified Highway Vehicle Operator (DH accounts)

A qualified highway vehicle operator is a person that owns, operates, or otherwise controls a diesel-powered highway vehicle and delivers, or causes to be delivered, diesel fuel, or any liquid, into the fuel tank of a diesel-powered highway vehicle and is qualified to use dyed diesel fuel on the highway by the IRS under Section 48.4082-4 of Title 26 of the Code of Federal Regulations.

You must be licensed with the Board in order to be qualified to use dyed diesel fuel on the highway. No change in current registration is required.

A licensed qualified highway vehicle operator is allowed to use dyed diesel fuel on the highway and report the tax without being subject to the dyed fuel penalty. Every qualified highway vehicle operator is liable for the backup tax imposed under subdivision (a) of Section 60058.

You will report only dyed diesel fuel used on highways on your monthly return (form BOE-501-DH). If you purchase undyed diesel fuel used on highways, you must pay tax to your supplier.

Ultimate Vendor (DV accounts)

A person that sells undyed diesel fuel to the user of the diesel fuel (the ultimate purchaser) for use on a farm for farming purposes or for use in an exempt bus operation. You must be licensed as an ultimate vendor with the Board (you must have qualified sales to ultimate purchasers—exempt bus operators and farmers—in order to have an ultimate vendor license).

If you are not licensed with the Board and make sales of undyed diesel fuel to ultimate purchasers, you must apply for a license by submitting form BOE-400-FCO.

Note: Suppliers of Diesel Fuel may no longer also be licensed as ultimate vendors. If you are currently licensed as both a supplier of diesel fuel and an ultimate vendor because you make sales to an ultimate purchaser, your ultimate vendor license will be closed effective December 31, 2001. See below for information on claims for refund.

You are required to file reports on a monthly basis (form BOE-770-DV), detailing your diesel fuel purchases. This report is due on or before the last day of the month following the period for which it relates.

Ultimate Vendor Claims for Refund (if you are also a Diesel Fuel Supplier, see note below)

You can file a claim for refund of diesel fuel tax if you make exempt sales to ultimate purchasers (farmers and bus operators) without collecting tax reimbursement. Use your monthly return form BOE-770-DV to file your claim.

If you do not make any sales to ultimate purchasers you cannot be licensed as an ultimate vendor and must use our new refund claim form, *Claim for Refund on Non-Taxable Sales and Exports of Diesel Fuel* (form BOE-770-DZ) to claim a refund for exempt sales. You will be notified of your account number after you file your initial claim on the new form.

Note—ultimate vendors who are licensed Suppliers of Diesel Fuel: After December 31, 2001, you will remain licensed as a Supplier of Diesel Fuel, but you can no longer be licensed as an ultimate vendor. Consequently, you will need to claim your credit or refund on your Supplier of Diesel Fuel Tax Return. We will be able to process these claims for refund more quickly due to our new automated system.

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Exempt Bus Operator (DB accounts)

A person that owns, operates, or controls an exempt bus operation.

An exempt bus operator must be licensed with the Board to operate as an exempt bus operator. No registration changes are required for currently licensed exempt bus operators. If you have not obtained a license, please use form BOE-400-FTA.

You must file a return (form BOE-501-DB) showing the total number of gallons of diesel fuel you used in the exempt bus operation within this state during each reporting period. The return is due on or before the last day of the month following the period to which it relates.

As a licensed exempt bus operator, you are required to purchase all undyed diesel fuel used in exempt bus operations from an ultimate vendor or supplier and purchase the fuel using a Certificate of Exempt Bus Operation. The certificate must be renewed once a year.

Claims for refunds. In the past, we have administratively allowed exempt bus operators to claim a refund for tax-paid undyed diesel fuel used in exempt bus operations on their Diesel Fuel Exempt Bus Operator Tax Return. This credit will not be allowed after December 31, 2001.

Government Entity (DG accounts)

California and its political subdivisions, except for a political subdivision that is only an exempt bus operator.

Each government entity operating a diesel-powered highway vehicle upon this state's highways must be licensed with the Board. No changes are required for currently licensed government entities

If you have not obtained a Government Entity diesel fuel tax license, please use application form BOE-400-FTA.

Do you sell undyed diesel fuel to exempt bus operators?

If you do, you must also register as an Ultimate Vendor. When you make sales to exempt bus operators for use in exempt operations, you will not collect tax reimbursement from the purchaser. You will report those sales on your ultimate vendor report. You can use the report to file a claim for refund of any tax-paid undyed diesel fuel you sold to an exempt bus operator without collecting the tax reimbursement. All claims for refund must be supported by a Certificate of Exempt Bus Operation from the exempt bus operator.

You must file a return (form BOE-501-DG) showing the total number of gallons of dyed diesel fuel and undyed diesel fuel used in a diesel-powered highway vehicle during each calendar month. The return is due on or before the last day of the calendar month following the monthly period for which it relates.

I am currently licensed as a qualified motor vehicle fuel distributor and I have ex-tax motor vehicle fuel inventory below the rack. How will I report this?

A floor tax applies, as of January 1, 2002, to inventories of motor vehicle fuel purchased without payment of tax and held below the terminal rack.

The floor stock tax is due with the January 2002 Supplier of Motor Vehicle Fuel Tax Return. A letter was mailed to all motor vehicle fuel distributors licensed as of December 1, 2001, asking that all motor vehicle fuel inventory held below the rack be reported on the return portion of the letter and also entered on Summary Schedule SO2A (Miscellaneous Fuel Transactions Subject to Tax) of the January 2002 Supplier of Motor Vehicle Fuel Tax Return.

I am currently licensed as a motor vehicle fuel distributor and I have tax-paid inventory above the rack. How will I report this?

You are entitled to claim a tax credit for inventories of tax-paid motor vehicle fuel held above the terminal rack. We mailed a letter to all motor vehicle fuel distributors licensed as of December 1, 2001, asking that all tax-paid motor vehicle fuel inventory held above the rack be reported on the return portion of the letter and also be entered on Summary Schedule SO3A (Other Tax-Paid Credits) of the January 2002 Supplier of Motor Vehicle Fuel Tax Return.

I will not be filing my tax returns electronically. Can I create my own schedules and submit them with the paper tax return that I file?

You must use the uniform schedules that the Board provides with each return unless you have submitted for and received approval of proposed schedules. To ensure accurate and timely processing of your return and schedules, your schedules must be

identical to our preprinted schedules. Aligning, spacing and heading rows and columns must be identical to our schedule. All required information must be supplied in the exact order as it appears on the standard schedules.

What is meant by the bulk transfer/terminal system?

The bulk transfer/terminal system is the distribution system consisting of refineries, pipelines, vessels (includes both ships and barges) and terminals. Diesel fuel and motor vehicle fuel in a refinery, pipeline, vessel or terminal is in the bulk transfer/terminal system. Diesel fuel and motor vehicle fuel in the fuel tank of an engine, or in any railcar, trailer, truck or other equipment suitable for ground transportation are not in the bulk transfer/terminal system.

I am a marine terminal operator. Will I be required to register as a terminal operator and to file the Terminal Operator Informational Report?

If a marine terminal is issued a terminal control number (TCN) as an approved terminal by the IRS, then you will be required to be licensed as a Terminal Operator by the Board.

If a licensed supplier has tax-paid motor vehicle fuel or diesel fuel above the rack, does tax apply again when it is removed?

Yes. All rack removals of gasoline and diesel fuel are subject to the excise tax, unless they are otherwise exempt. A supplier can take a credit for the overpayment of tax on its diesel fuel or motor vehicle fuel supplier return. To take this credit, the supplier must keep with its tax return a copy of the First Taxpayer's Report required by the IRS.

May I file a claim for refund of tax for certain transactions of tax-paid motor vehicle fuel on my Supplier of Motor Vehicle Fuel Tax Return?

You may claim a credit on your Supplier of Motor Vehicle Fuel Tax Return for tax-paid fuel exported, tax-paid fuel removed from a rack, tax-paid fuel returned by a customer, tax-paid fuel sold to consulate officers and employees, and tax-paid fuel used off-highway. However, the credit may be used only when the dollar amount of taxable transactions for the return period exceed or equal the dollar amount of credit or credits.

Acredit for tax-paid fuel exported, tax-paid fuel removed from a rack, and tax-paid fuel returned by a customer may be taken on a tax return filed within three months after the close of the calendar month in which the tax-paid fuel is exported, is taxed the second time, or is returned. A credit for tax-paid fuel sold to consulate officers and employees or used off-highway must be taken in the month of sale or use and is not carried forward to another tax return.

If a supplier failed to take a credit or the credit was not used on a tax return, the supplier must obtain a refund of the tax by filing a claim for refund with the State Controller. Also, the supplier must file a claim for refund with the State Controller on tax-paid fuel sold to the armed forces of the United States for use in ships or aircraft or for use outside the State. A State Controller claim for refund must be filed within three years from the date of purchase of the fuel, from the date the fuel was returned or from the date the supplier incurred the tax liability for the second tax.

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May I recover a refund of the fuel taxes paid on accounts deemed to be bad debts?

Under the Diesel Fuel Tax Law, a licensed diesel fuel supplier that has bad debts related to rack removals of diesel fuel, for which the supplier has paid tax to the Board may claim a credit on its Supplier of Diesel Fuel Tax Return or submit a claim for refund to the Fuel Industry Section. Since the incidence of tax is at the rack, only sales made at the rack are allowed a bad debt write-off. Other taxpayers further down the distribution chain are merely recouping their cost of doing business and cannot claim a bad debt.

The Motor Vehicle Fuel Tax Law does not contain provisions for the recovery of a refund of fuel taxes paid on accounts deemed to be bad debts. Therefore, no tax refund is available as to bad debts related to

rack removals of motor vehicle fuel for which the supplier has paid the fuel taxes.

Where can I get help in understanding the diesel fuel tax and motor vehicle fuel tax programs?

The Board recognizes the complexity of these tax programs and its staff is ready to help you. If you need assistance, please

- Call 916-322-9669
- Write to us at Fuel Industry Section, MIC: 30, State Board of Equalization.
 P.O. Box 942879, Sacramento, CA 94279-0030
- Send an e-mail to Robert.Frank@boe.ca.gov

If appropriate, Board staff can meet with you in Sacramento or in some cases at your place of business to help with your concerns. Staff is also available to provide training to groups of taxpayers on an as-needed basis.

If I have specific questions regarding the application of tax, will the Board respond in writing?

The Board recommends that if you have specific questions regarding the application of tax, that you submit these questions in writing. The Board will review your questions and will respond in writing. You may be relieved of tax, penalty, and interest charges if the Board determines that you did not correctly report tax because you relied on our written advice regarding a transaction or series of transactions. In order to gain relief, your request must be in writing. Please be sure to identify the taxpayer to which the advice applies, and fully describe the facts and circumstances of the transaction(s). This advice applies only to the taxpayer making the request. Any future change in the law, regulations, or court decisions will invalidate the written advice.



Call Our Information Center

1-800-400-7115

Telephone devices for the deaf 1-800-735-2929 (TDD phone) 1-800-735-2922 (voice phone)

Talk to a customer service representative.
Order tax rate charts.
Order publications.
Have information faxed to you.



Board of Equalization

www.boe.ca.gov

Taxpayers' Rights Advocate Office:

www.boe.ca.gov/tra.htm

State Legislation www.leginfo.ca.gov

California Taxes www.taxes.ca.gov